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Preface to Isaac Husik, *Philosophical Essays:
Ancient, Medieval, and Modern*

A decade ago Isaac Husik died. To the many men and women who knew him and came within the influence of a life marked by simplicity, gentleness, and genuine humor, no fitter description could be made than that "self-portrait" of Hume which Husik's death recalled to a friend: "... a man of mild dispositions, of command of temper, of an open, social and cheerful humor, capable of attachment, but little susceptible of enmity. . . ." To his colleagues in the academic world and to his peers in the search for "the unity of human learning," his death was that of one of the most distinguished historians of philosophy America had produced. To some, the two aspects of his life appeared to be wholly distinct. A closer study will show them to have been whole and integrated.

The years since Husik's death have served to establish more firmly a reputation founded upon sound scholarship and breadth of interest in the history of ideas and of learning. His papers on Aristotle's philosophy are among the best on that subject. His *A History of Mediaeval Jewish Philosophy*, now in its second edition, was not only justly described by a contemporary reviewer as "the first attempt in the English language to present completely the history . . . of systematic speculation among Jewish thinkers from the ninth to the fifteenth centuries," but was also recognized as a work which for its soundness and penetration "place son auteur au rang des meilleurs historiens de la philosophie,"¹ "... un travail de tout premier ordre et dont on peut dire qu'il aura été classique dès le jour même de son apparition."² His four-volume edition and translation of Joseph Albo's *Sefer ha-Ikkarim* was the first complete translation on scientific principles into English of an important text first printed in 1485. And to his laurels as historian and philologist Husik had added those of a scholar in jurisprudence who had translated von Ihering's *Law as a Means to an End*, had edited and translated Stammler's *The Theory of Justice*, and had made original contributions to jurispru-

dence. These contributions to scholarship, in the historical and speculative fields, might be regarded, indeed, as sufficient and enduring monuments to Husik's superb linguistic skill and to his devotion to learning. The gathering together and publication of his essays in ancient, medieval, and modern philosophy is, however, no act of supererogation. The essays themselves attest an interest by Husik in rounding out and deepening his knowledge of systematic philosophy and his speculation upon problems which perhaps—and almost certainly in the instance of philosophy of law—were preparatory for more extended studies. The essays are, however, neither tentative nor incomplete. They are the well-considered writings of a great scholar in fields central to philosophy, religion, and law. It has been one of the principal reasons for publishing this book that the essays will serve the useful purpose of bringing together writings scattered beyond easy access by Husik's very versatility in learned journals so varied as the *Philosophical Review*, the *Jewish Quarterly Review*, the *Columbia Law Review*, *Mind*, and the *Archiv für Geschichte der Philosophie*. And were they not so widely scattered, the justification for their publication—if justification be needed—is perhaps sufficiently indicated in a comment Husik once made concerning the fortunes of the study he judged to be his outstanding contribution to scholarship and philosophy: "*Habent sua fata libelli*," he wrote. "Thirty-four years ago I published a paper on 'The Categories of Aristotle' in the *Philosophical Review*. Like the case of the proverbial Irishman who desired to be buried in a Jewish cemetery because that was the last place the devil would look for an Irishman, so it seems that the *Philosophical Review* at the time was the last place that an Aristotelian scholar would look for a literary-historical article on the *Categories* of Aristotle." Perhaps, because of the breadth of Husik's interests, a published essay or unprinted manuscript may be saved from "sua fata" of incarceration within the covers of rank upon rank of "learned journals" to find among the readers of this volume those who will, in its reading, imbue it with new life.

Of their author, it has already been suggested in this prefatory essay that his life bore the outward semblance of simplicity and gentleness. So marked, indeed, were these characteristics associated with a retired and retiring life that they evoked in one who knew him as a student and colleague for some forty years a "wonder at the strength of gentle, the power of quiet, and the fullness of uneventful lives." Husik's life was in fact not uneventful, however full it was. It was a life of difficult decisions and one which required for its fulfillment the greatest tenacity of purpose. And however uneventful it may have been in such superficial circumstances as pertain to physical adventure, it was a life,

on Husik's own testimony, of the most magnificent adventures of the imagination, of the opening and investigation of a world of scholarship rich beyond even the most fantastic dream of a small immigrant boy, and of the meeting of minds, embodied and in books and manuscripts, which enriched an academic life and turned it upon the most diverse paths of interest.

Few men, indeed, have evidenced greater courage and persistence in the pursuit of the object of their heart's desire than did Husik in following the course which eventually led him to a professorship in philosophy at the University of Pennsylvania and to a worldwide reputation among scholars. He was born at Vasseutinez, in the province of Poltava, near Kiev, Russia, on 10 February 1876. His was a pious Jewish family which emigrated to America in 1888. His father's scholarly interests—Wolf Husik was a teacher—and Isaac's early training in Hebrew and in Jewish studies suggested the rabbinate as a career. For the two years before he began his theological training, Isaac studied at Central High School in Philadelphia and earned his livelihood by giving private lessons in Hebrew.

His formal theological studies ended abruptly, and with their termination the suggestion of a career as a rabbi likewise ended. Writing shortly after Husik's death, Louis E. Levinthal³ recalled the circumstances and in so doing underlined an aspect of Husik's character which is essential for an understanding of his career. Judge Levinthal remarked that Husik "was a scholar who loved not only wisdom. He loved justice and truth even more. His personal integrity and high sense of honor would not permit him to tell a 'white lie' nor to live a lie, white or black. This was strikingly illustrated early in his life. He had planned to become a rabbi, an ambition which greatly pleased his mentor and guide, Rabbi Sabato Morais. He became a student of the Jewish Theological Seminary of America, but when Husik found himself questioning the orthodox beliefs of his ancestral religion, and when the traditional practices of Judaism could no longer command his complete obedience, he unhesitatingly left the seminary, and devoted himself to the study of philosophy instead of theology." In this move, following upon perhaps the most dramatic decision in Husik's scholarly career and certainly the one most far-reaching in its consequences, one discovers the pattern of the man's life. As will be evident, the decision led him from the comparatively restricted interests of the theologian into the wider fields of nonsectarian scholarship. His action, however, signified more than this. With it began a lifelong pursuit of objective truth in fields in which Husik proposed to apply the tools of scholarship rather than accept the dictates of authority. The consequences were

decisive not only for his controversy with Neumark⁴ but in the calm acceptance of a life for many years bordering on actual poverty, with weary hours devoted year after year to the teaching of languages, hours which Husik must necessarily have thought would be more fruitfully devoted to his historical and speculative studies. For it should be remembered that Husik took a "calculated risk." It was not until 1911 that he became a lecturer at the University of Pennsylvania, and not until five years later that he was made a member of the faculty, with rank of assistant professor. Finally, it is well to note that in this pattern of a man's life, the constant devotion to the "impractical," to the acquisition of knowledge for itself, there is recurrence: he turned from assurance of a distinguished career as rabbi or theologian or both, precisely as he entered later upon the study of the law with no thought of practicing in the courts. His action was ultimately motivated by his profound interest in "pure" scholarship.

Upon leaving the Jewish Theological Seminary, Husik entered by examination the University of Pennsylvania, as a sophomore. In the course of his study at Pennsylvania, he was awarded four degrees, the B.A. in 1897, the M.A. in 1899, the Ph.D. in 1903, and the LL.B. in 1919. His undergraduate career was scholastically outstanding. In but two instances was his recorded mark less than "distinguished" in a course marked by unusual diversification of studies. It is, however, a career particularly notable as a record of linguistic, philological, and literary achievement. In 1895–96, the year in which Husik received a full scholarship, he was also awarded first prize in Hebrew. The following year, he was awarded separate prizes for senior work in French language and literature, and German language and literature, as well as first prize for the Alumni Latin Essay.

In 1897 Husik received his bachelor's degree. It is also the year in which Gratz College was founded and in which Husik was appointed a member of its faculty. He was to remain there as a teacher of Bible, Hebrew grammar, Jewish philosophy, and rabbinics until 1916.⁵

While teaching at Gratz College, Husik entered the graduate school of the University of Pennsylvania. As a candidate for the master of arts degree, his principal interest at this time lay in mathematics, with "minors" in astronomy and Hebrew. He had by this time acquired mastery of Latin, Greek, Hebrew, Aramaic, German, French, and Russian, and now began studies in Arabic, having taught Hebrew since 1894 in one of the Hebrew Education Society schools in the city of Philadelphia.⁶ Husik's university scholarship in mathematics and astronomy continued until 1899, when he turned to classics. He continued his studies, principally in Greek and Latin, as a university scholar,

until 1902. In 1903, he was appointed fellow for research in philosophy, a status in which he continued until 1911. In classics, he studied with Professors Rolfe and Lamberton; in philosophy, with Professors Fullerton, Newbold, and Singer. And it was the latter two distinguished members of the department of philosophy who principally influenced Husik's philosophical career.

The factual story of academic careers may interest academicians, although the pattern of studies undertaken and degrees awarded tends to pall upon even the most assiduous researcher into dusty archives. The story of academic friendships and the influence of men in university relationships preserves a warmth not ordinarily associated with the routine of seminars and the techniques of research. More than that, it is sometimes, as it was in the instance of the friendship of Newbold and Husik, the occasion for a quickening of imagination and deepening of interests which in themselves cast light upon the motives of men's actions. Husik's relation to Edgar A. Singer, Jr., was one of long-continued friendship, but it was more than that. Husik's speculation upon philosophy of law fell within the framework of Singer's systematic philosophy of "empirical idealism." But it must be remembered that the young Husik was a man principally gifted in languages and that, in Newbold, he discovered a scholar no less gifted in languages, a mature philosopher, and a man so enormously erudite as to have become a figure to conjure with. It is given to few to find, embodied, as Husik did find in Newbold, their ideal of a man. It is given to even fewer to find an ideal which remains such throughout life. It is given to even fewer still to be able to portray that ideal. And, perhaps the most extraordinary fact of all, the portrait of that ideal is not only the portrait of Newbold, but, unconsciously, of Husik himself, of what he hoped to attain, and what in large part he did achieve.

Newbold presented Husik to the graduate faculty of the University of Pennsylvania on 17 June 1903, and characterized his doctoral dissertation, *Judah Messer Leon's Commentary on the Vetus Logica*, as "a substantial contribution to our knowledge of Jewish medieval philosophy." It was Newbold, with Singer, who vigorously supported Husik's appointment as fellow for research from 1903 and as lecturer in 1911, in the face of at least one administrative officer's comment that the appointment would constitute a "luxury" for the department. A "luxury"—at a few hundred dollars a year for twenty years—it was in one sense: Husik's principal interest, ancient philosophy, was the field in which Newbold researched and taught, and Newbold was one of the most brilliant scholars and lecturers in the history of the university. But it was Newbold who fought for the appointment.

It was an act of courage and understanding which Husik never forgot. In a letter prepared for the Newbold memorial meeting, 1 December 1926, he wrote from the heart: "I cannot refrain from recording here, for everyone to read, my great indebtedness to William Newbold. He was more to me than a teacher, a colleague, and a friend; though what more can one want than a true friend? But there are so many different kinds of friends, and William Newbold was to me the one kind that made all the difference. At a time when the slough of disappointed hopes was nigh overwhelming, it was William Newbold who cheered and encouraged me, and not content with kind words he exerted himself to the utmost to help me realize my fond hopes."

Husik saw in his mentor the man to whom was due "whatever I have accomplished." More than this, Newbold stood firmly for what Husik held to be the ground for the philosophical attitude. He regarded Newbold as that rare person "who loves learning for its own sake. I emphasize the word 'learning.' I do not mean science, I do not mean philosophy, nor have I in mind history or literature. Learning is necessary, to be sure, in a serious study of all these subjects, and the majority of persons with an intellectual turn of mind possess, as they must, a certain measure of learning and a certain love thereof, using it as a means to further their specific ends as scientists, philosophers, men of letters, historians. But there is such a thing as learning as an end in itself, the love of books, the love of ideas, and the love of languages, as a means of getting into touch with the books and the ideas and the learning of all the world through the ages.

"There is a grave danger, if a person becomes addicted to learning, that he may lose touch with everything that is not books and become a bookworm. But if one avoids this pitfall and joins with his love of learning a love of his fellowman, he is thrice blessed. The combination is rare in our day because of the many temptations that lead one astray, and the deliberate teachings also of many persons in our midst, that one must above all be practical. Fortunately, there are still a few who believe, or who feel, with Aristotle, that practicality does not necessarily mean being busy with the material affairs of this world, and that a life of study and contemplation is just as worthwhile as one that is concerned with the economics or the politics of the moment. As Aristotle quaintly puts it, if only a life that is devoted to external things is worthwhile and leads to true happiness, then God and nature, who have nothing external to themselves and whose life therefore must needs be one of internal contemplation, would be neither complete nor happy."

In temperament, Newbold and Husik were unlike. Newbold was brisk, fiery, enormously energetic; Husik quiet, contemplative, con-

trolled. Nor were they fundamentally alike as scholars. Both were enormously learned and each had superb control of languages. Yet Newbold's interests lay principally in working at the solution to erudite puzzles and scarcely at all in publishing the results of his research. The one notable exception was his study of Philolaus and the Pythagorean philosophy. Husik had no liking for puzzles, if by puzzles one means philosophy expressed in myth and metaphor. Philosophy to him meant propositions and verification. He preferred Aristotle to all other thinkers. He was painstaking in his effort to set free the meaning of an obscure text by bringing to it philosophical, historical, and philological techniques. He prepared his material for publication, perfecting it as a work of scholarship to be judged by his peers.

Despite these divergences, Newbold's influence upon Husik was enormous. He could, however, only have exerted its full force in a great university. And what the scholar and the University of Pennsylvania did is significant not alone for what they eventually produced in Husik, but also because the event suggests something of the effects which the best in humanism in America produced in the youth of eastern Europe who had come to this country from a closed community and who, in normal circumstances, would have remained isolated in a translated community of the same kind. Husik's natural gift for languages would have gained preeminence for him in any scholarly company. It is true that he had taught Hebrew while yet a student in high school, and was an instructor at Gratz College while his doctoral dissertation was being printed in Leiden. A glance at the introduction to his doctoral dissertation indicates, as well, that he had mastered the art of editing a text. The edition of the *Vetus Logica* clearly anticipates those requirements of perfection which marked all of Husik's later work: "careful collection" of texts, recognition of corrupt readings, knowledge of sources, and an understanding of the philosophies of Aristotle and Averroes. Knowledge and skill are no doubt presupposed in his coming upon a catalogue which informed him that in the Royal Library in Munich there was "a Hebrew manuscript containing a commentary on Averroes's commentary on Aristotle's logic." But there is more in the incident than a man's evident skill in reading languages. For Husik, the memory of the event was green thirty years later and he himself remarks that it was a "revelation" to him. As he wrote in "The Unity of Human Learning": "I did not know that any Jew in the Middle Ages wrote in Hebrew on such a non-Jewish and nonreligious topic as Aristotle's logic, and at once I realized in imagination the joy of studying that manuscript, of seeing how the Jewish rabbi of Mantua in the fifteenth century was grappling with the technical Aristotelian logic in

the Hebrew language, *which up to that time I knew of only as a medium used in the prayer book, in the Bible, and in rabbinic law.*"⁸ Newbold and the University of Pennsylvania emancipated Husik from a narrow provincialism. Some instances of such emancipation leave the freed one derelict and without stable foundations. For Husik, in the process of winning his freedom by proper employment of philosophical and philological tools he had sharpened, the process of emancipation led to "insight" into "the unity of human learning."

To one interested in this career, it is difficult to overestimate what had occurred to the man who now was twenty-seven years old. The immediate consequences of this discovery were evident: "in working out that thesis I brought together a Greek philosopher who lived in Athens in the fourth century B.C., an Arab of the Mohammedan faith who lived in Cordova in the eleventh century, a Christian scholastic of the late Middle Ages, and a rabbi of Mantua, who lived in the fifteenth century. And on the way I met many other Greeks, Christians, and Jews, writing in Greek, in Latin, in Arabic, and in Hebrew, all trying to solve the same problem of the nature of logic and of the human ideas and concepts."

The joy he took in the two years of research was undiminished by the reiterated suggestion that the task was "not worthwhile." In a negative sense, he had discovered that "he who has real enthusiasm and interest in ideas will not be content with popularization or sugar-coated pills." Likewise, in a negative sense, he had emancipated himself from "absorption in such a study of the Talmud as among Jews in Russia and Poland" produced "excessive narrowness and provincialism," without understanding "of the relation of talmudic law to other laws, ancient and modern, or perhaps even the true relation of the talmudic law to the law of the Bible." In an affirmative and positive sense, he was brought to realize the truth that "learning is universal, that it is as broad as Humanity and the human spirit." He learned, also, that "all human learning is interrelated, and the truly learned man says, to paraphrase a well-known Latin maxim: 'Nihil humanarum literarum a me alienum puto'."

The vision of a career of learning and scholarship had been granted to Husik, but the practical means which would enable him to pursue that career were not readily available. He had experience of teaching, but in the field of his principal interest there was no opening. Newbold taught undergraduate and graduate course work in classical philosophy, and the brilliance of his teaching was only paralleled by the breadth of the research he pursued and supervised. But Husik, once he had experienced the vision of the unity of human learning and had

come to closer grips, not with commentaries upon commentaries, but with Aristotle's text itself, turned not only to the task of perfecting his knowledge in the field of medieval thought and to jurisprudence, but to that of resolving one of the most debated and difficult problems in Aristotelian studies. He set out to examine the problem of the authenticity of the whole of Aristotle's *Categories*. The problem was familiar to Aristotelian scholars of the ancient world and puzzled no less those who had perfected modern scholarly techniques. Husik's findings were published in 1904 in the *Philosophical Review*. "The *Categories* of Aristotle" remained throughout Husik's life the contribution to philosophy of which he was most proud. He had reason to take pride in it. Sir David Ross, one of the great Aristotelian scholars of our time, remarked of the article thirty-four years later,¹⁰ not only that Husik had "done a service to students of Aristotle by reminding them of his earlier article," but that in building up an "impressive series of resemblances between the *Categories* and the *Topics*," and by refuting the arguments of scholars disinclined to accept the authenticity of the work, he had come to a sound conclusion in his proof of its authenticity.

His paper on Aristotle's *Categories* is the work of a mature scholar who has perfected the instruments of his art. It signalizes Husik's freedom from theology and from the influence of authoritarian pronouncements. The evidence is that his "Aristotle on the Law of Contradiction and the Basis of the Syllogism,"¹¹ published in *Mind* in 1906, is a no less valuable contribution to philosophy. But while his freedom had been gained, it was not easily maintained and its implications were shortly to be seriously attacked. On 8 May 1908, Husik published in the *Jewish Exponent* a review of Professor David Neumark's *Geschichte der jüdischen Philosophie des Mittelalters*;¹² and he followed this with a review in the *Philosophical Review*.¹³ Husik held that Neumark's work was "of great value" written by an author who had "mastered his field." Leaving from present consideration his disagreement with Neumark on the possibility of formulating a Jewish philosophy,¹⁴ Husik expressed fundamental disagreement with Neumark's interpretation of Aristotle's theory of matter and form, and indicated an additional disagreement concerning the author's translations of passages from the *Physics* and the *Metaphysics*.

In 1910, Husik got down to essentials concerning Neumark's book in "A Recent View of Matter and Form in Aristotle."¹⁵ He now regarded the undertaking as "pretentious in its scope and aim." He examined the translations made by Neumark and, in effect, indicated clearly enough his low evaluation of Neumark's Aristotelian scholarship. Neumark replied in *Archiv*.¹⁶ Husik replied with "Matter and Form in

Aristotle: A Rejoinder,"¹⁷ and Neumark again replied in the *Anhang* to *Geschichte der jüdischen Philosophie*.¹⁸ Neumark's attack on Husik was scurrilous to a degree. Scholars, the most renowned of whom was Bäumker, supported Husik's interpretation of Aristotle. The sequel to the controversy come with the publication of Husik's *A History of Mediaeval Jewish Philosophy* in 1916, when Neumark, in the *Hebrew Union College Monthly*, attacked Husik in such wise that his review was described in the following terms: "for unblushing ferocity, for delight in revenge, for bad manners, one will hardly find anything to equal it in the history of American scholarship."¹⁹ The controversy is of little importance now. Husik stood for an objective interpretation, the need for which has long since been recognized. It is significant, however, for the vigor with which Husik was attacked for denying that there is a "Jewish philosophy," and for denying the dictates of authority in scholarship.

Husik's interest in Aristotelian studies continued throughout his lifetime. He conducted seminars in the university in Aristotelian texts until the time of his retirement. Indeed, in 1938, he prepared a brief paper, read at the annual meeting of the American Philosophical Association and published the following year in the *Journal of Philosophy*,²⁰ bringing up to date his studies in the authenticity of Aristotle's *Categories*. He taught medieval philosophy, having been appointed lecturer in the university in 1911. In 1916, he published *A History of Mediaeval Jewish Philosophy*. A new interest appeared, however, and it was one in the development of which Husik most completely becomes a speculative philosopher. Husik was commissioned by the Committee of the Association of American Law Schools to translate Rudolf von Ihering's *Zweck im Recht* for the Modern Legal Philosophy series. His translation, published under the title *Law as Means to an End*, appeared in 1913. Three years later, an assistant professor in philosophy, he matriculated at the University of Pennsylvania law school. The event did not pass unnoticed. Louis E. Levinthal²¹ was at the time a postgraduate student at the law school, working with Professor David W. Amram. Writing on "The Memory of Isaac Husik," in 1940, he recounts his surprise "to learn that Dr. Husik had enrolled as a freshman in law. Mr. Amram told me then that Dr. Husik had become interested in jurisprudence, having translated from the German a learned volume on the philosophy of law. Mr. Amram humorously remarked that, like another Alexander, eager to conquer unknown territories, Husik was starting upon the wide ocean of Anglo-Saxon law." Husik completed the course in law and took his LL.B. in 1919. Again the mystery recurred: "I recall his appearance before the County Board of

Law Examiners," continues Levinthal, "when he informed the rather awe-struck and admiring members of the Board that he would like to be admitted to our bar but had no intention or desire to practice as a lawyer. Some of my colleagues on the Board, never having heard of *Tora lishma*, were somewhat skeptical about such unadulterated study for a profession. I still recall the whispered remark of one of the men, after Dr. Husik had left the meeting room: 'I wonder why he really studied law!'"

Precisely why Husik did study law probably remained to the end a mystery to the members of the legal profession. Not only had he no intention of practicing law or even of passing his examinations for the bar; he had no intention, when he began his studies at the law school, of taking a degree. His analysis of the legal philosophy of Hans Kelsen was judged by editors to be "above the heads" of the readers of law reviews and eventually was published in a philosophical journal.²² It is evident that Husik was drawn to law ultimately because he was interested in all aspects of human learning. It is also evident that the influence of his friend Edwin R. Keedy, professor of law at the University of Pennsylvania, provided the occasion for his determination to take regular courses in law, precisely as Newbold had earlier influenced his career. Following various discussions upon legal subjects, Keedy practically challenged Husik to answer his own question, "How is the law taught?" Husik entered the law school, as Keedy puts it, with "a chip on his shoulder." His first question, after the first examination of a law case, was "But where's the logic in that?" Keedy explained that there was no logic in it, that the law, "like Topsy, just grewed." Husik was to spend many of his mature years attempting to determine the nature of the logic of law. As we shall see, his interest centered upon the problem of justice, its grounds and sanctions, and led him finally to examine the limits of subjectivity and objectivity expressed in egoism and altruism.

Meanwhile, in 1916, Husik had been appointed to an assistant professorship in philosophy at the University of Pennsylvania. In 1922 he advanced to a professorship, and the following year was appointed editor of the Jewish Publication Society of America. By this time, full recognition of his scholarship had occurred, and his life was devoted to teaching and to the presentation in articles and books of the fruits of his learning. He lectured at Yeshiva College in New York and at the Hebrew Union College in Cincinnati, which later invited him to become a member of its faculty. Husik's study of Stammler's *The Theory of Justice* appeared in 1925, and of Kelsen's legal philosophy in 1938. His great edition of Albo's *Ikkarim* in four volumes appeared from the press of the Jewish Publication Society in 1929–30. In 1933 he became editor for the

philosophical section of the *Jewish Encyclopaedia*. He was a member of the governing board of Gratz College, and of the Board of License of the Associated Talmud Torahs. He was active in the American Oriental Society and the Pharisees, the American Philosophical Association and the American Academy for Jewish Research.

The latter years of his life were also the richest in terms of happiness and friendships. In 1926 he married Rose Gorfine of Baltimore, Maryland, and shortly after purchased the land in Churchville, Bucks County, on which the Husiks built their home. To it came their many friends. Conversation was equally divided between music—Mrs. Husik being a gifted pianist—and philosophy. The ties of friendship at the University of Pennsylvania remained close, and Husik counted among his intimates Henry Bradford Smith, Edgar A. Singer, Jr., and Louis W. Flaccus, his colleagues in the department of philosophy.

In 1931 Husik was seriously ill, but his recovery was complete. His health failed again in 1938 and the university granted him leave of absence. He returned, in the second semester of that year, both to his teaching and to his editing for the Jewish Publication Society, but a recurrence of the heart ailment ended fatally on 22 March 1939.

The three principal aspects of Husik's contribution to scholarship are classical philosophy, more particularly in the Aristotelian field, medieval Jewish philosophy, and philosophy of law. His interests in these fields are not compartmentalized. They are bound together in his thinking and writing by the "unity of human learning"—"most useful because it is most useless"—and by the ideal of scholarship, and control of the tools of scholarship, which he employed with equal facility in all fields. He wrote once that to "understand Hebrew" the scholar "must know Assyrian and Babylonian and Arabic and Syriac and even Egyptian. To understand the Semitic languages from a philological point of view, he must know the characteristics of the non-Semitic languages, hence he must be familiar with Sanscrit, Greek, Latin, and the Teutonic and Slavonic languages . . . a student in the phenomenon of human speech." He might similarly have laid down these enormous demands for scholarship in classical philosophy and in philosophy of law. Indeed, it is precisely the point of his article, "A Recent View of Matter and Form";²³ or, better, that article is a practical illustration of the application of his enormous resources as a scholar, precisely as "The Law of Nature, Hugo Grotius, and the Bible"²⁴ manifests it in the field of the law.

There is, however, a deeper interrelation of this triadic field of interest. The Western tradition, in Husik's judgment, is the result of the

best of the two diverse streams of culture in which his own interests lay: Hebraism and Hellenism, the "two points of view" which "represent the fundamental elements of human civilization." For Husik, the Greek spirit was the embodiment of "sheer intellectual power," manifesting itself in humanism, in reason, and in science and art. The Hebraic spirit, he believed, was primarily moral and spiritual. His understanding of the Greek spirit produced the finest single study of his career, "The Categories of Aristotle." His understanding of the Hebraic spirit, fructified by his knowledge of that of the Greeks, led to speculation which enabled him to bridge the gaps between the eastern and western thought in Jewish medieval philosophy. But the true mediation of the two spirits for Husik is philosophy of law, where he found that combination of "science" and "justice" best displayed to make "a progressive humanity possible."

Sufficient has been said of Husik's contribution to Aristotelian scholarship. To the other two aspects of his thought we may now turn, mindful at the outset, while we endeavor to ascertain relations, that the center of gravity of his scholarship is to be found in his studies on Jewish medieval philosophy. This fact, obvious in the contents of the present volume, is even more evident upon consideration of those of his writings which appeared in book-form, principally *A History of Mediaeval Jewish Philosophy*, *Judah Messer Leon's Commentary on the Vetus Logica*, and *Ikkarim*. Even the formal study of "Matter and Form in Aristotle" was occasioned by Neumark's history of Jewish philosophy and belongs to the context of Husik's discussion of Neumark's work.²⁵

The direction which Husik's interest took might seem to find its sufficient explanation in the fact that he was both a Jew and a philosopher. It would be more accurate, however, to say that, while this fact would account for his interest in Jewish philosophy, it was his realization of the problematic character of Jewish philosophy that explains his interest in the history of Jewish philosophy and, therefore, especially in Jewish medieval philosophy.

No one could insist more strongly than Husik did on the purely historical, nay, antiquarian character of all relevant modern studies on Jewish medieval philosophy. He knew too well, however, that "History for History's sake" is an absurdity. His insistence on the merely antiquarian character of all relevant modern studies on Jewish medieval philosophy was only the consequence, or the reverse side, of his conviction that in the modern world Jewish philosophy is not merely nonexistent but impossible. To establish this conviction, he had to explain why Jewish philosophy was possible in the past. And since he believed "that we cannot speak of a Jewish philosophy until the move-

ment in the Middle Ages which culminated in the philosophy of Maimonides," it was only the study of Jewish medieval philosophy that enabled him to discern the precise reason why in the modern world Jewish philosophy is impossible. It was because of his view that in the modern world Jewish philosophy is impossible that Jewish medieval philosophy could not be of immediate, but only of historical interest to him. But the historical studies which established and elucidated this view served a function that was ultimately philosophic rather than historical.

To the superficial observer, Husik's attitude towards Jewish philosophy might appear to have been little more than an expression of his attitude towards the Jewish problem as a social problem. Husik had his roots in the Jewish tradition or, more specifically, in the closed Jewish community of eastern Europe of the late nineteenth century. The young Husik had to liberate himself from what he then called "the spiritual bondage of the ghetto," "the self-centered spirit" of traditional Judaism, "the narrow bigotry of racial and religious exclusiveness." He broke away from a manner of life which was "a life apart from the rest of the world." Thus he was naturally attracted by Jewish medieval philosophy, which was the greatest monument remembered within the ghetto walls of Jewish participation in the life of "the world." Yet most of the medieval Jewish philosophers appeared to be Jews in the very act of their philosophizing. They addressed their philosophic works to Jews and to Jews only. The emancipation of the Jews in the modern era, however, required that the Jew should contribute to civilization "not as a Jew, but as a man." Desiring to participate without reserve in modern civilization, the modern Jew could not take as his models the medieval Jewish philosophers. Thus Husik had to show that the type of procedure characteristic of Jewish medieval philosophy was no longer viable. Or, to stress another aspect of the same strand in Husik's thought, if self-respecting Jews were to participate in modern civilization, they had frankly to admit to themselves and to others the limitations of the Jewish heritage. Those who are in the habit of calling this whole attitude "assimilationist" are free to follow their bent provided they do not forget that philosophy itself is a kind of assimilation, assimilation to God or the Truth.

In fact, in order to judge fairly Husik's attitude towards Jewish philosophy, one merely has to consider his notion of philosophy. Philosophy, he says, "cannot afford to be either Jewish or Christian. It must aim to be universal and objective." Philosophy is "independent reflection" or "free inquiry." It is incompatible with "any belief in authority as such." It cannot "be bound by the religion in which one is

born." "Philosophy qua philosophy [cannot] have a given basis forced upon it. Philosophy will be of value so long, and only so long, as it keeps itself independent of any special religious or other dogmatic doctrines." Furthermore, philosophy strives for knowledge for its own sake and hence cannot as such be enlisted in the service of any other cause, not even in that of ethical monotheism. Finally, philosophy is the attempt to discover the all-important truth on the basis of premises at the disposal of man as man. It is therefore essentially the affair of man as man, not of the Jew as Jew. From this point of view, the idea of a Jewish philosophy is as self-contradictory as the idea of a Christian mathematics or of a German physics.

Husik reached the same conclusion by considering the idea of a Jewish philosophy from the point of view of Judaism. "Judaism is not a philosophy or a science; it is a religion. It is a positive and historic faith." More specifically, Judaism is Law, divine, unchangeable, all-comprehensive law. Judaism means the Torah, and the correct translation of *tora* is law. Accordingly, "the most important monuments of postbiblical Jewish literature are devoted to the legal aspects of the Bible," not in any way to philosophy. The attitude characteristic of Judaism is "naive dogmatism," as distinguished from, and opposed to, the "rationalism" characteristic of philosophy. Philosophy is therefore not "indigenous to Judaism." The belief in an original Jewish philosophy is "unhistorical." "We can scarcely speak of philosophy in connection with the Bible" or with the talmudic literature. "The impulse to philosophizing came from the Greeks." "Philo can scarcely be called a philosopher." "The first Jew, so far as we know, to devote himself to philosophical and scientific discussions" was Isaac Israeli (c. 855–955). "We have no Thomas Aquinas. Maimonides does not occupy that place, and no one dreams of giving him such a place." Considering the basic relation of Judaism and philosophy, it is not surprising to observe that in times of persecution "the philosophic and scientific devotees" among the Jews "were the first to yield, and many of them abandoned Judaism."

From these premises, Husik was led to the conclusion that "the attempt of the medieval Jewish philosophers to establish Judaism on a philosophical basis could not, from the nature of the case, have been a success" or that the task which they set themselves was "hopeless." Husik's detailed argument can be reduced to three main assertions. In the first place, he questioned the genuinely philosophic character of Jewish medieval philosophy. To the extent to which the medieval thinkers admitted the authority of the divine law and conceived of the efforts of reason as necessarily subservient to that authority, they ceased to be philosophers. Naturally, they believed that they were accepting the

authority of the divine law on the basis of stringent historical proof and that they were following in their philosophic reflections reason alone. This, however, was a delusion. Their philosophic activity "was the outcome of an intellectual naiveté which we have lost forever." In the second place, Husik denied that the efforts of Jewish medieval philosophy led to a justification of the teaching of the Bible. In attempting to reconcile the Bible with philosophy, they read Greek philosophy "into the Bible by a method which we do not now regard as legitimate." The agreement between the Bible and reason was proved by "the fiction of interpretation," i.e., by the substitution of an allegorical meaning for the genuine meaning of the biblical texts. Finally, insofar as Jewish medieval philosophers did use arguments of a genuinely philosophic character to prove genuinely biblical teachings, Husik denied that they were successful. In particular, he did not believe that the problem of divine knowledge and divine providence could be solved "on the basis of ordinary theism." It is possible that this belief led him to take a sympathetic view of the frankly antitheological philosophy of Spinoza.

Jewish philosophy was, then, possible in the Middle Ages and is impossible in the modern time because the medieval thinkers had "an intellectual naiveté which we have lost forever." Husik traced that naiveté to the absence in medieval thought of historical and literary criticism and, indeed, of an adequate historical knowledge. Medieval rationalism failed because rationalism can "not take the place of a knowledge of history." As regards historical criticism of the biblical text in particular, it was dangerous in the Middle Ages to state in plain terms even the most modest suggestions pointing in that direction. The absence of a historical approach is the crucial negative condition for the employment of the allegorical method, as well as for the development of "a harmonistic attitude in the presence of conflicting authorities." The modern turn to history culminates in "the modern theory of evolution." This doctrine forces us to trace the Bible not to God, but to the genius of the Jewish people. It destroys therewith forever the foundation, not only of the Jewish tradition in general, but of Jewish medieval philosophy in particular. Above all, the study of both Greek philosophic and Jewish literature that is conducted in the spirit of historical objectivity leads to "a truer understanding . . . of the provinces of positive religion and of scientific and philosophical thought." It was with the rise of that truer understanding that "Jewish philosophy has ceased."

To hold the view that the idea of a Jewish philosophy is a delusion is perfectly compatible with the admission that this delusion was under certain conditions inevitable and even salutary. Husik did not stint his praise of the achievement of Maimonides and other Jewish medieval

philosophers. In the Middle Ages, only a philosophy that was emphatically Jewish could vindicate within Judaism the authority of reason or take up successfully the fight against superstition and obscurantism. It is true that the authority of reason was recognized by the classical philosophers. It is also true, however, that the classical philosophers were not confronted by the claims of Revelation. To have succeeded in vindicating the authority of reason in the presence of the claims of Revelation "is an achievement of absolute, not of relative value."

This will, perhaps, suffice to clarify the reasons for Husik's conception that his medieval studies were simply historical. They do explain in fact why there is no immediate connection between his philosophic and his historical studies. His chief philosophic interest was in the philosophy of law, and he insisted on the fact that "Judaism always meant law." He thought that "the most important question in law is justice" and, while "the spirit of science is still Greek in its origin," "the passion for justice is still Hebrew." He never attempted, however, to establish a connection between the philosophy of law and the philosophy of Judaism, unless his purely historical effort to show the biblical as well as the classical influences on Grotius be judged an exception. He attached particular importance to the efforts of Stammler and Kelsen. He paid little attention, however, to the work of Hermann Cohen, from which the doctrines of Stammler and Kelsen derive, a fact which can only be explained by Husik's attitude towards Jewish philosophy. He admitted that "the philosophical greatness of Hermann Cohen is beyond question," but he was dissatisfied "with Cohen as a Jewish philosopher." Cohen "made his Judaism tell in his philosophy," with the result that he was forced into "doubtful interpretations" of Judaism and especially of Jewish medieval philosophy. In interpreting the thought of the past, and especially Jewish thought, Cohen employed a method which he called "idealizing" interpretation. This consisted, to use the famous Kantian expression, in understanding the great thinkers of the past better than they understood themselves. Husik rejected this approach as "subjectivistic." He may well have thought that only if "systematic" philosophy and history of philosophy are kept strictly separate can the requirements of historical objectivity be fulfilled.

Husik's achievement bears witness to the fact that most valuable work can be done on the basis of his philosophy. "Objectivity," as Husik understood it, means in the first place the insistence upon the difference between facts and hypotheses. That difference had become somewhat obscured by the temporary success of the "higher criticism" of the nineteenth century. One cannot but admire the courage and the learning with which Husik maintained against all other contemporary students

the genuine character of the entire *Categories* of Aristotle. "Objectivity" means, furthermore, impartiality or the refusal to engage in special pleading. Animated by the unobtrusive and unshakeable pride that prevents a man from stooping to make unwarranted claims for the group to which he belongs, Husik never for a moment attached to Jewish philosophies a greater philosophic or historical importance than they in fact possessed. His freedom from any apologetic tendencies has rarely been rivaled by other students in his field. "Objectivity" means also the ability to withstand the temptation to interpret the thought of the past in terms of modern thought, to say nothing of modern fashions. In the case of the study of Jewish medieval philosophy, that ability presupposes clarity, based on solid knowledge of the texts, concerning the fundamental difference between modern and medieval philosophy. Historians who try to modernize Jewish medieval philosophy cannot help but lay greater stress on its Platonic than upon its Aristotelian elements, since Plato is, or seems to be, nearer to modern thought than Aristotle. Husik's sober picture of Jewish medieval philosophy brings out very forcefully the almost overwhelming influence of Aristotle. But this by itself would not be enough. History of philosophy is a modern discipline, a product of modern philosophy. And modern philosophy emerged by way of transformation of, if in opposition to, Latin or Christian scholasticism. Modern students are therefore tempted to interpret Jewish medieval philosophy on analogy to Christian scholasticism, or to conceive of Maimonides as the Jewish counterpart to Thomas Aquinas. A special effort is needed to realize the fundamental difference between Jewish medieval philosophy and Christian scholasticism. Husik has made this special effort. In this he was doubtless assisted by his familiarity with that tradition of Jewish rationalism the main supports of which were the writings of Maimonides and which, as a tradition, was perhaps never completely interrupted.

The character of a thing sets it off from other things. It is its "limit." One cannot describe the work of a scholar which has a character without speaking of that work's limitations. Were we to conceal the difficulties with which his position is beset we should certainly not act in the spirit of the Husik who never ceased extolling and practicing the duty of intellectual honesty. These difficulties may be reduced to three heads. They are related to the problems of objectivity, of historical evolution, and of the idea of a Jewish philosophy.

Husik especially opposed the "subjectivism" of Hermann Cohen. Yet, in reviewing a work of one of Cohen's disciples, he granted that "it is better frankly and deliberately to embrace subjectivity than to claim its opposite which cannot be realized, for pure objectivity does not

exist." One cannot demand pure objectivity in such matters as are essentially controversial among honest and competent people. If it be true that all philosophic subjects are of this nature, or that all philosophic controversies reveal "our helpless struggle . . . in the face of the unknown," there can be no objective history of philosophy, unless the history of philosophy can be made independent of any specifically philosophic assumptions. Now, the very first thing that the historian of philosophy has to do is to delimit his field of inquiry or to distinguish his subject matter clearly from the subject matter of the other branches of history. History of philosophy presupposes knowledge of what philosophy is. But what philosophy is, is as controversial as any other philosophic subject. History of philosophy will then necessarily be subjective because its very basis is necessarily subjective. To begin with, there is indeed no reason why one should not define philosophy as the attempt to replace opinions about God, world, and man by genuine knowledge of God, world, and man. It is controversial, nevertheless, whether there is direct experience of God—or, more specifically, mystical experience—which supplies genuine knowledge of God as the first cause of all beings, and it is obvious that the manner in which this question is answered determines completely the precise meaning of philosophy. Husik summarily identified Jewish philosophy with Jewish rationalist philosophy and excluded Jewish mysticism and, in particular, the Kabbala from his history of that philosophy. We need not insist on the fact that he dealt in his work with the teaching of Yehuda Halevi, who, according to Husik's own presentation, is a mystic rather than a rationalist. What is decisive is the fact that Husik's definition of the subject matter of the history of Jewish philosophy would appear to be as subjective as that suggested by others whom he blamed for having unduly broadened the term "philosophy" by identifying Jewish philosophy with Jewish thought in general. It is true that all arbitrariness could be avoided if the historian would regard as philosophers only those competent thinkers who regarded themselves as philosophers. In fact, this would appear to be the only legitimate historical procedure or the only procedure compatible with the demands of objectivity, if the task of the historian of philosophy be indeed that of understanding the great thinkers of the past as they understood themselves. But this leads to a new and perhaps still more serious difficulty in regard to Jewish medieval philosophy. It would be easy to show that certainly the greatest of the Jewish medieval thinkers, Maimonides, did not regard himself as a philosopher. The ultimate consequence of a strictly objective procedure would then resemble the evaporation of the subject matter of the history of Jewish medieval philosophy.

The specific philosophic assumption that underlies Husik's historical studies is revealed not so much by the definitions of philosophy which he suggested, as by what he indicated concerning the relation of truth and history. He considered the emergence of a historical approach as the decisive reason for the obsolescence of Jewish medieval philosophy and, with it, of Jewish philosophy as such. "We are all the products of history," and this must be understood not only of our habits and prejudices but of our purest and freest thoughts as well. A man's thought will in the best case still be dependent on "the science of his day." Therefore, there cannot be final certainty. There cannot be certainty, that is, that the science of one's day is not fundamentally false. "It matters not whether the science is true or false. There have been many false sciences, and who knows whether a century later our science will not be upset in turn?" One cannot express the difficulty more tellingly than Husik himself does by speaking of "our helpless struggle in the face of the unknown." In his analysis of Jewish philosophy, Husik assumed that the foundations of Jewish orthodoxy had been destroyed "forever" by historical criticism. The modern Jew cannot help but reject "the old theory" of Judaism, according to which the substance of Judaism is the Torah as the unchangeable divine law, in favor of "the modern theory of evolution," according to which the Torah is the historical product of the genius of the Jewish people. Hence, the modern Jew is entitled and even obliged to "differentiate between the essential and the unessential in the Jewish *Weltanschauung*." "As a result of this process of selection a great part of the material is simply thrown overboard as unessential and the result of historical accident. What remains is kept for the time being as the eternal root of Judaism. But since we are all the products of history, who can warrant that the future may not see things otherwise than we do, and either go back or forward in the process of selection?" It is impossible to accept this too sanguine prospect, which still takes it for granted that in spite of our uncertainty concerning the modes of "selection" which may prevail in the future, we can be certain that the principle of "selection" (as opposed to the principle of obedient acceptance of the whole) is established forever. If human thought is radically historical, if the science of the day, and hence especially the historical science of the nineteenth and twentieth centuries which has destroyed "the old theory" of Judaism, may very well be upset in turn, one must admit, in fact one has already admitted, the possibility of a full restoration of "the old theory," i.e., of Jewish orthodoxy.

Husik's studies on Jewish medieval philosophy are animated by the spirit of historical objectivity. They are not animated by a distinctly Jewish spirit or conceived from a distinctly Jewish point of view. These

studies could have been the work of a sufficiently equipped non-Jew or of a sufficiently equipped Jew for whom his being a Jew was merely an accident of birth. But Husik was deeply attached to Judaism. Being a philosopher, he was forced to clarify the meaning of that attachment and to bring it into harmony with his attachment to philosophy. His statements on this subject betray a certain vacillation which is not surprising, since "one scarcely knows what so-called modern Judaism stands for." He was not always sure whether the Judaism to which he was attached was primarily a spiritual force and not rather a racial entity. What keeps Judaism in existence "is the desire of the Jew to retain his identity. The philosophy which puts this desire in articulate terms may vary from age to age, the instinctive desire which prompts it is one and unchangeable. The blood of race is thicker than the water of metaphysics." Still, the view that seems to have prevailed with Husik was that "the genius of the Jewish people . . . created certain ideas and institutions which have proved their value by being accepted by the greater part of civilized humanity," and that these ideas and institutions rather than mere race commanded his allegiance. "The unity of God, and the idea of Ethics and Social Justice, is all that is left of Judaism." This Jewish heritage, he felt, is as essential for civilization as the Greek spirit of science and philosophy. From this conclusion, he was naturally led to demand that the Jewish heritage—"the passion for justice" or "the fear of the Lord"—be brought into some working relation with philosophy and science, or, more precisely, with modern philosophy and science. He was led, in other words, to subscribe to the demand for a modern philosophy of Judaism. "All will not be well in Judaism until the position of the Bible as a Jewish authority is dealt with in an adequate manner by Jewish scholars who are competent to do it . . . the scholar who is going to undertake it . . . must be a philosopher and thinker of eminent abilities. And he must have a love of his people and sympathy with its aspirations." That is to say, what is needed is a modern Jewish philosopher. This whole strand in Husik's thought is in full agreement with the principles of Hermann Cohen. It is therefore hard to see how Husik could with consistency have avoided agreeing with the principle of Cohen's approach to Jewish medieval philosophy. For the fundamental problem for the modern Jewish philosopher—the relation of the spirit of science and of the spirit of the Bible—was also the fundamental problem for the medieval Jewish philosopher. The modern Jewish philosopher will naturally try to learn as much as possible for his own task from his illustrious predecessors. Since he has achieved greater clarity at least about certain aspects of the fundamental issue than the medieval thinkers had, he will not be

exclusively concerned with what the medieval thinkers explicitly or actually intended in elaborating their doctrines. He will be much more concerned with what these doctrines mean in the light of the fundamental issue, regardless of whether the medieval thinkers were aware of that meaning or not.

It would be wrong to belittle the strength of these objections. It might be more dangerous, especially in our time, to overestimate their force and to believe that they make doubtful the guiding intention of Husik the scholar. In spite of certain vacillations, he was convinced that a Jewish philosophy is impossible. This conviction was supported by the observation of the difficulties in which the greatest Jewish thinker of his time had become entangled. Owing to the historical character of all modern thought, Cohen was forced to accompany his philosophy of Judaism with interpretations of Jewish medieval philosophy, and these interpretations were extremely objectionable from the point of view of historical exactness. The concern with the "idealizing" interpretation proved to be ruinous to the concern with exact interpretation. A position that forces its holder to attach great importance to historical studies and at the same time prevents him from conducting these studies in an exact manner appears to be untenable. The demand for objectivity, for understanding the thought of the past as it really has been, without distorting it—this demand is not the powerless last gesture of the dying and deadening spirit of the nineteenth century, but the vivifying and invigorating call of that desire in man which prompts him to hate the lie in the soul more than anything else. This was the solid ground on which Husik stood. On this basis, the difficulties with which his position remains beset must be soluble. They cannot be solved without a far-reaching revision of his general views as well as of his interpretation of Jewish medieval thought. But all these changes will have to be inspired by the intention that guided his scholarly work.

That demand for objectivity met its severest speculative test for Husik in his research into the philosophy of law. In this field, he faced fundamental difficulties raised for philosophical analysis by the status of values and evaluation. And he faced them because, as he well realized, since the time of the Greek sophists the grounds for moral and legal sanctions, for obligation and of justice, had presented crucial problems for those who attack and those who defend the theory that the sanctions of law and morality are conventional and subjective.

As we have seen, the translation of von Ihering's *Law as Means to an End* was the occasion for Husik's initiation into jurisprudence. We

have seen, as well, evidence of the genuine puzzle which his entrance into the law school of the University of Pennsylvania and which his appearance before the County Board of Law Examiners posed. Professor Amram's suggestion that Husik, like another Alexander, proposed to conquer the world of Anglo-Saxon law is significant in the light of the man's hunger for learning. More significant, certainly, is his remark to Professor Keedy concerning the logic of the law. But the logic or lack of logic of the law was for Husik but another way of expressing his profound interest in the grounds for the evaluation of just and unjust acts, and this interest, in turn, stems from his conviction that in practical action Hellenism and Hebraism, the two great streams of the Western tradition to the understanding of which he devoted his life, are most nearly conjoined.

Husik noted that Greek thought had encroached upon the province of practice which was regarded as "peculiarly the strong point of Judaism." The issue is a crucial one. In general, Husik regarded Hebraism and Hellenism as "two points of view" which, while they "represent the fundamental elements of human civilization," and supply the means to make "a progressive humanity possible," are antithetical. For Hebraism, in his estimation, is primarily a moral and spiritual power manifesting itself in "justice," while Hellenism is the embodiment of "sheer intellectual power," manifesting itself in humanism, in reason, in science, and in art. He sought the mediation of the two opposed traditions. Science by itself tends to be "hard and cruel and destructive as much as constructive"; justice without science is "blind and helpless." In particular, the mediation is difficult. Hellenism and Hebraism meet in the province of practice, but for the students of the Torah "sin and crime and vice and tort and breach of contract become simply violations of the one Law of God," and the problem of law itself is the "meaning of the eternal law." The source of this conception of the law Husik traces to the historical fact that the Jews had no state of their own, interpreted the law as the law of God as revealed in the Bible and in the Talmud, and were strictly limited in a rational approach to jurisprudence by the assumption that the Bible is a direct word of God, "supposed to be complete and perfect, irrespective of time and place."²⁶ Husik maintained that theoretical speculation among the Jews, resulting from the clash of Hebraism and Hellenism, left Jewish thought unaltered only in the fields of political and legal theory. In jurisprudence, he saw a meeting point in practice between the two spirits. He believed that in the philosophical and scientific techniques of Hellenism could be found the ground for substituting criticism for faith. But he also believed that the formal and rational contribution of Hellenism to the

conception of justice needed the passion for justice which "is still Hebrew." He hoped to discover rational grounds for norms of justice. But he would no more embrace such a theory of absolute justice as that propounded by Plato than he would accept the unalterable mandate of "God's law." Paradoxically, he hoped to resolve the problem by substituting the variable for the objective standard.

It is evident that Husik realized early that no historical examination, such as that which he made of Grotius' jurisprudence, would satisfy the conditions of this enormously difficult problem. What is needed is not an examination of the interpretations and contexts of interpretations of a concept such as that of "natural law" but, rather, a methodology expertly employed in the concrete context of law itself. For if, as he maintains, Greek and Jew alike are concerned with conduct which is subject to evaluation, there must be a methodology for the philosopher of law, and the methodology must be applicable to a definable field of endeavor. As regards methodology, Husik's views are perhaps most explicitly stated in his reviews. Despite his high estimate of de Tourtoulou,²⁷ he disagrees fundamentally with the author of *Philosophy in the Development of Law* upon the meaning of the "conventional." Far from holding that a definition is devoid of interest because it is built upon convention, Husik maintains that it may be of interest if a useful system may be established upon a definition of the law, and furthermore he argues that this outcome may be forthcoming even if one jurist is in agreement with himself. More basically, the law is not merely conventional. It is also experimental, "experimental because the jurist picks out for study those facts which by general consensus are termed juridical and by a study of those facts he establishes a definition." Husik grants that the law is "conventional" simply because the jurist assumes that the definition, however vague and lacking in precision, exists in the general consciousness. But he insists finally that to be conventional does *not* mean to be arbitrary. Indeed, he holds that the law is not unique in this respect, inasmuch as all definitions are similarly conventional and experimental.

Still, the philosophical question remains: what is the law that exists in the general consciousness, "forced upon the human mind by the situation, natural and social," a definition of which is partly experimental and partly conventional? Husik sees clearly the relation of the question to similar questions arising in the field of mechanical and physical law. Moreover, he sees clearly its relation to morality and ethics, to its central problem of justice, and to its general sociological as well as analytical framework of reference. Some clue to Husik's answer to his own question is found in his review²⁸ of Hohfeld's *Fundamental Legal*

Conceptions. Here Husik maintains that Hohfeld's limitation of the law to the problem of "right" as the sufficient term at the basis of law, to the exclusion of "duty," deprives the author of a generic term basic to the entire science of jurisprudence. But Husik goes farther, insisting, by implication, that law is a science, that in jurisprudence, which is the science of law, it is necessary to have "*necessary and sufficient* basic concepts." What is required, he holds, is "insight into the conceptual basis of law."

But if law is a science, it is one which does differ from the sciences of mechanics and physics. And the differences suggest again the conflict between objectivity and subjectivity of judgment. In this regard, it is evident that Husik's approach to the problem is affected not only by the subject matter of the law, but also by the speculative philosophy of his colleague, Professor Edgar A. Singer, Jr. Singer, in his philosophy of "empirical idealism," insists upon a sharp distinction between sciences which are mechanically definable, and those which are definable in terms of teleology. It is fundamental to Singer's position that objective judgments may be made of events which occur "only for the most part," i.e., more than once and less than always. But this substructure of systematic philosophy, which appealed to Husik in part because of its Aristotelian implications, remains bare and abstract outside the structure of jurisprudence. A philosophy of law grounded on a not dissimilar speculative structure he found in Hans Kelsen's jurisprudence. Kelsen makes the significant differentiation between the natural law, which has no exceptions and cannot be violated, and a norm, which can be violated but can have no exception.

It is evident, moreover, in Husik's interest in Kelsen, that he fully realized the difficulty presented by his own question to Keedy in 1916. For the answer to the question, "Where's the logic in that?" could not now be one framed in terms of either abstract logic or even of mechanical laws. This is evident if we compare his attitude toward the systems of jurisprudence which he analyzed with such care in the articles "The Legal Philosophy of Rudolph Stammler"²⁹ and "The Legal Philosophy of Hans Kelsen."³⁰ Husik preferred Stammler's jurisprudence to Holland's because of Stammler's interest in reason and justice, rather than in positive law, his search for *a priori* rather than *a posteriori* principles of explanation, and his statement of the problem in terms of a theory of those propositions about law which have universal validity. He grants more than this, indeed, in his evaluation of Stammler. "The choice between two equally plausible definitions may seem arbitrary," he writes, but "preference should be given to that which gives the better results." And, on this pragmatic test, Husik maintains that Stammler

"succeeds in deriving a great deal from his definition which does not lie in Holland's programme at all."

Nevertheless, the "very essence" of Stammler's method, in Husik's opinion, constitutes not only his strength but his weakness. Stammler's philosophy of law concerns *a priori* principles and must "deal with pure forms of legal thinking, i.e., with concepts which contain nothing of concrete legal material." It is the "vice of abstract logic," he concludes, which "taints all the reasoning of Stammler."

Husik holds that, while he as a jurist is no less rigorous in method than Stammler, Kelsen's philosophy of law is far the richer in content. Here, indeed, he found speculative philosophy concerned with "the conceptual basis of the law," allied with brilliant suggestions concerning "justice," rights, duties, and the problems of oughtness. Husik describes Kelsen's effort as one intended "to establish the presuppositions of a legal science on the basis of positive law," without taint of abstract logic or intrusion of concern with ethics. He is struck by Kelsen's identification of political theory (*Allgemeine Staatslehre*) and jurisprudence, by his distinctions between natural and normative sciences, between laws and norms, between cause and effect and "ought," between the indefinable and independent primary categories of thought, and between "Being" and "Ought."

It has been noted above that Husik emphasizes Kelsen's differentiation of the natural law, as that which has no exception and cannot be violated, from the norm, which can be violated but can have no exception. But Kelsen uses the differentiation primarily because the methodology of the science of norms will show the interrelations of norms, and will produce a concrete body of data for the solution to the most difficult problems of jurisprudence.

It is interesting, in the light of Husik's earlier investigations into natural law and as an application of the problem of subjective and objective judgments, that Kelsen's treatment of norms enables him to distinguish between the "ought" category and the habit which is its origin, as well as between norm and ground in natural law. This is the concrete application of the principle, implicit in Singer's philosophy, of teleology, that its principles operate for the most part. For the invariability of the norm is unaffected by the fact that the rule of law, "'The State wills to punish' does not mean that punishment invariably takes place, for it does not, but that punishment should take place. This is invariable if the norm is valid." And it is likewise interesting that, in the implications of Kelsen's jurisprudence, Husik finds the systematic denial of Hohfeld's hypothesis that right is the sufficient term at the basis of the law. Rather, duty is the fundamental concept, while right is

secondary, and "it exists, where it does, only by grace of the law."

It is not necessary to enter in detail upon either Kelsen's jurisprudence or Husik's interpretation of it. It will suffice to point out that Husik agrees with Kelsen that there can be no *regressus in infinitum* in the establishment of the validity of a legal norm; that the "fundamental norm is merely the necessary presupposition of a positivistic conception of law"; and that "the content of the fundamental norm . . . must be gathered from the actual behavior of the people." And, for our purposes, it is more important to understand Husik's position than to examine his analysis of Kelsen's establishment of the state, in juristic terms, as the law and as "person," the "end point of legal imputation." For it is clear that in Kelsen's masterly interpretation of the law as norm and presupposition of positivistic law Husik found the ground for his own speculation upon jurisprudence, the systematic account which accorded with his own view of the law as definitional (i.e., conventional) and experimental. These are also the grounds for definability, objectivity, and for the enforcement of sanctions. Husik had brought the tools of scholarship and knowledge to the historical and systematic problems of interpretation of Aristotle, and was content with the knowledge those tools wrought. Granted knowledge and increasing knowledge, interpretation remained fundamental. He had reestablished, by his study of philosophy of law, his conviction that in philosophy only propositions are true or false. His courageous denial of the validity of the demand for faith and of the need for acceptance of authority now began to bear fruit. Faced by a seeming breakdown in causal law, if there be one exception, he also faced up to the problem of value judgments and oughtness. And in the "norm theory" and in teleology he discovered sound grounds for speculation.

The results of Husik's own speculation are evident in the unhappily too few manuscripts of his studies in jurisprudence which remain. These papers indicate the line of his thought, although they do not provide the whole system. In two extant manuscripts,³¹ "Judge Made Law" and "The Theory of Justice," Husik makes two basic points. The first is his conviction that the law is not merely definitional and abstract but, rather, that it grows from human acts, conventions, and customs, and is legislated by the court. The second is the firm belief, in contrast to his skepticism concerning Jewish philosophy, that the grounds for juristic systems and for justice may be revealed.

As we have seen, the conception of norms is an essential portion of Kelsen's thinking. This phenomenological basis for values becomes fundamental to Husik's analyses. In his essay on "Judge Made Law," the abstract principles of this phenomenology begin to take shape. Husik regards the judge as one who uses inductive and deductive methods,

and whose “universe is the accumulation of decisions as the field of the astronomer is the motion of the heavenly bodies and that of the biologist the animal species, past and present.” He is doubtful that the first principles of the law ever had a beginning, but if they did so, he hazards the opinion that they were probably determined by “chance and convenience,” and that conflict gave rise to rational reflection and “deliberate decisions in case of conflict,” with the result that principles resulted. The legal sphere of the common law is, in this view, constantly invaded by extralegal customs until the courts, recognizing social necessity, adopt the customs to “keep the law in touch with life.” And he reiterates Kelsen’s view that “there is no law without a state.”

“The Theory of Justice” gives the most rounded view of Husik’s jurisprudence. The paper is notable for its recognition that two forms of “subjectivism,” the cynicism of the sophists and the method of “trial by strength” of the courts of the Middle Ages, are both applications of the theory that justice is the rule of the stronger—a theory which, as Husik acutely points out, may sound reasonable until it is applied to the inhumanity the thug exercises in assaulting his innocent victim. Husik’s principal concern is with human freedom in the law. He criticizes “justice” as explained in Marxian and Nietzschean terms: for “all talk of justice and injustice becomes idle” in economic determinism, “just as mechanical determinism makes all moral values meaningless.” The theory of norms and that of freedom are now allied, and the “caprice” which subjective philosophy attempts to substitute for true freedom is denied the efficacy it is often thought to have.

But before we examine some consequences of this conception of freedom, it is essential to an understanding of Husik’s thought to describe his attitude toward the ancient theory which attributes objective existence to abstract universals or ideas such as justice. Husik regards it as a necessary corollary to such a theory that difficulties of application of principles should arise, for “since the conditions of human society are constantly changing, applications of judgment in specific cases are bound to change.” He insists, however, that “we must have some idea of justice if we want to do justice.” The real issue arises—and this shows how deeply both Singer’s philosophy and Kelsen’s jurisprudence had affected his thought—when he turns to the formulation of the idea of justice. He sees that there is a difference between definitions, capable of verification, and propositions concerning natural phenomena, which are “true or not” according to their correspondence or lack of correspondence to facts.

Correspondence is, however, but a partial solution to the problem and, in fact, to depend upon it alone is an evasion of the essential

issue. For we “do not describe an act” as just; we “put values in it.” Husik maintains that what we now have is a real fact in nature and an evaluation. He is content to regard the universal occurrence of the word “justice” among men as sufficient justification for assuming that there is a common concept of it. He is not content, however, to leave unexamined the problem whether divergence and variations of definitions offered concerning the concept of value mean that any philosopher or jurist “intended to express what mankind has actually meant by Justice and no more.” He observes acutely, and with the observation goes to the heart of the issue, that man is the carrier of values, and that the various definitions offered at various times were “intended to impose values on human acts, institutions, and relations.”

There is no elaboration of this phenomenological theory. But the reader of “The Theory of Justice” approaches Husik’s most mature speculation. The law, and with it, justice, are not abstracted from men’s actions and institutions. They are not merely conventional or definitional. Their roots lie in morality and custom, yet the law is enforceable and the judge does legislate. Doubts concerning the grounds for these phenomena were settled in Husik’s own mind. But no philosophical mind, unless it has converted philosophical principles into tenets of religious faith, hopes for, envisages, or would welcome absolute conviction. Husik still doubted, but his was the doubt a philosopher could welcome. To the problems it raised he could bring philosophical techniques and knowledge. No longer was he confronted by absolutes, either of religion or of Hellenistic rationalism. The problem with which “The Theory of Justice” ends is the conflict between the principles of action for one’s own good and for the good of others. Husik urges that “the only answer is that we are as a matter of fact so constituted that we have by nature two opposite tendencies, the selfish and the altruistic, and that we feel by nature that we ought to follow the second while all our desire tends to follow the first.”

It may well be that in this and in his concluding remarks may be found the expression of faith of a good man who has discovered in philosophy a haven from doubt: “the ethical imperative is innate and is felt instinctively to have the higher value, while at the same time being the more difficult to carry out. This social or altruistic sense grows in strength and precision as time and history advance. There is no possibility of getting beyond these brute facts of our being—justice and injustice are ultimate values and cannot find their sanction in anything more original.” But if, on the other hand, this is an article of faith supplanting a deeply rooted skepticism which itself was the outcome of the blow the conception of the unity of human learning dealt to narrow provincial-

ism, it is well to recall that Husik had achieved that faith by forty years of rigorous effort. Behind the assertion that justice is a primitive concept lay the stores of knowledge in history, theology, languages, and law. But whether his conclusion was the statement of a conviction or a problem, it was intended neither as an easy nor as a simple solution to the grim problems of egoism and altruism, the practical application of the antithesis of subjectivity and objectivity which Husik faced.

The editors of this book have been content to place Husik's essays in the chronological order suggested by their titles rather than by the dates of publication. They have assumed responsibility for selecting from the papers made available to them by the executrix of Husik's estate, Mrs. Rose Husik Forman, those they judged to be of permanent interest and value. They are well aware that other and perhaps equally important essays may have escaped their notice. Husik's publications were widely scattered and, in the task of editing, it became evident that the record of his publications is incomplete. For similar reasons, no definitive bibliography of Husik's writing could now be prepared. Moreover, the editors, rather than delay longer the publication of writings which have increasingly impressed them both by range and value, would regard completeness as less important than the immediate publication of the essays.

The editors acknowledge their indebtedness to Mrs. Forman, who initiated the plan for the publication of Professor Husik's essays and gave of her time and resources to the completion of the edition. They wish also to express appreciation of a generous subvention from the University of Pennsylvania.

Notes

1. *Revue Philosophique*, vol. 91, 291–94. ◀
2. *Revue de Métaphysique et de Morale*, vol. 29 (Supplement), 11–12. ◀
3. Now Judge of Common Pleas, Court No. 6, in Philadelphia. Judge Levinthal's "The Memory of Isaac Husik" appeared in *The Jewish Exponent* of 19 April 1940. It was read at the memorial exercises for Isaac Husik, held on 4 April 1940. ◀
4. See below, chapters 7 and 8. [These chapters in the original book contain: "Review of *Geschichte der jüdischen Philosophie des Mittelalters, nach Problemen dargestellt*, von David Neumark," 68–72; and "Review of Professor Neumark's 'Attributenlehre'," 71–85. —Ed.] ◀

5. After leaving his instructorship at Gratz College, he continued as a member of its governing board. ◀

6. In Henry Samuel Morais' *The Jews of Philadelphia* it is noted (p. 158) that Husik was teacher "at 2856 and 2858 Lark Street, Port Richmond, with about sixty pupils." ◀

7. Compare "The Unity of Human Learning," delivered at the Dropsie College Founder's Day Exercises, 9 May 1925, in which he expresses similar views. See below, 15–16. [Strauss's reference is to the first two pages of Husik's "The Unity of Human Learning," which essay appears in the original book on 15–26. —Ed.] ◀

8. Editor's [i.e., Strauss's] italics. ◀

9. See below, chapter 10. [This is the chapter that in the original book contains Husik's essay "The Categories of Aristotle," 96–112. —Ed.] ◀

10. *Journal of Philosophy*, 3 August 1939, 431–33. ◀

11. See below, chapter 9. [This is the chapter that in the original book contains Husik's essay "Aristotle on the Law of Contradiction and the Basis of the Syllogism," 87–95. —Ed.] ◀

12. The first volume of Neumark's book appeared in 1907. ◀

13. Vol. 17, 1908. See below, chapters 7 and 8. [These chapters in the original book contain: "Review of *Geschichte der jüdischen Philosophie des Mittelalters, nach Problemen dargestellt*, von David Neumark," 68–72; and "Review of Professor Neumark's 'Attributenlehre,'" 71–85. —Ed.] ◀

14. See below, xxiiff., for Husik's opinion on this problem. [See above in the present essay, approximately beginning with the paragraph which commences "To the superficial observer, Husik's attitude towards Jewish philosophy . . .," and ending with the paragraph which commences "To hold the view that the idea of a Jewish philosophy is a delusion. . . ." —Ed.] ◀

15. *Archiv für Geschichte der Philosophie*, Bd. XXIII, 1910. ◀

16. "Materie und Form bei Aristoteles," *Archiv für Geschichte der Philosophie*, Bd. XXIV, 1911. ◀

17. *Archiv*, Bd. XXV, 1912. ◀

18. *Anhang zum ersten Bande, Kapitel: Materie und Form bei Aristoteles*. Berlin, 1913. ◀

19. See "Professor David Neumark, Ph.D., and 'Mr.' Husik," by S. Baruch, February 1917. ◀

20. See below, chapter 10. [This is the chapter that in the original book contains Husik's essay "The Categories of Aristotle," 96–112. —Ed.] ◀

21. See above, ix and footnote. [See above in the present essay, the fifth paragraph from the beginning, which commences with "His formal theological studies ended abruptly." Also see *supra*, note 3. —Ed.] ◀

22. See below, chapter 20. [This is the chapter that in the original book contains Husik's essay "The Legal Philosophy of Hans Kelsen," 292–321. —Ed.] ◀

23. *Archiv für Geschichte der Philosophie*, Bd. XXIII, no. 7. ◀

24. *Hebrew Union College Annual*, vol. 2. ◀

25. Its effect upon his "The Categories of Aristotle" has been mentioned. See above, xviff. [See above in the present essay, the paragraph containing notes 9 and 10, which commences with "The vision of a career of learning and scholarship had been granted to Husik." —Ed.] ◀

26. This appears in Husik's analysis of the influence of the Bible upon Hugo Grotius' theory of jurisprudence. ◀

27. Husik's review was published in the *University of Pennsylvania Law Review* 71, no. 4. ◀

28. *University of Pennsylvania Law Review* 72, no. 3. ◀

29. See below, chapter 19. [This is the chapter that in the original book contains Husik's essay "The Legal Philosophy of Rudolph Stammler," 273–91. —Ed.] ◀

30. See below, chapter 20. [This is the chapter that in the original book contains Husik's essay "The Legal Philosophy of Hans Kelsen," 292–321. —Ed.] ◀

31. See below, chapters 21 and 22. [These chapters in the original book contain: "The Theory of Justice," 322–31; and "Judge Made Law," 332–42. —Ed.] ◀